

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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JIMMY F. McHENRY, PRO SE, §  
TDCJ-CID No. 1811322 §  
Hutchinson County Jail SO No. 12253 §  
Previous TDCJ-CID No. 1060417 §  
§  
Plaintiff, §  
§  
v. § 2:12-CV-0205  
§  
MATT ARMSTRONG, Refinishing Systems, §  
§  
Defendant. §

**ORDER OF DISMISSAL**

Plaintiff JIMMY F. McHENRY, while a prisoner confined in the Hutchinson County Jail<sup>1</sup>, has filed suit pursuant to Title 42, United States Code, Section 1983 complaining against the above-referenced defendants and has been granted permission to proceed in forma pauperis.

On October 22, 2012, a Report and Recommendation was issued by the United States Magistrate Judge analyzing plaintiff's complaint and recommending dismissal with prejudice for failure to state a claim on which relief can be granted.

**Plaintiff was instructed he could utilize the fourteen-day response period to either cure the deficiencies identified in the Report and Recommendation by filing an Amended Complaint or he could file Objections to the Report and Recommendation.**

Plaintiff filed his Objections on November 8, 2012. By his Objections, plaintiff complains that the law library computer was out of order for nine months while he was in the Hutchinson

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<sup>1</sup>Since filing suit, plaintiff has been transferred to the Texas Department of Criminal Justice, Correctional Institutions Division.

County Jail and he couldn't access Westlaw during that time. Plaintiff requests leave to amend and requests a six month extension in order to prepare his amended complaint.

Plaintiff further requests that the Court order officials at the TDCJ-CID Middleton Unit to allow plaintiff extra time in the unit law library and to transfer him to another unit with a larger law library with a more extensive collection of federal reporters.

Nothing in plaintiff's argument challenges the Court's analysis of his claims or indicates the baseless nature of the present suit is due to his lack of access to Westlaw. Further, if the Court has erred in its analysis of plaintiff's complaint or if plaintiff has mis-stated the basis for his claim(s), he has received a sufficient response period to enable him to cure any defect or point out to the Court any error. It appears plaintiff has alleged his best case. *Bazrowx v. Scott*, 136 F.3d 1053, 1054 (5th Cir. 1998). Plaintiff has been given sufficient opportunity to make any amendment he wishes

Plaintiff has presented no meritorious reason to support a grant of the requested six months in which to file an amended complaint and his motion is DENIED.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the objections filed by the plaintiff.

The Court is of the opinion that plaintiff's objections should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by JIMMY F. McHENRY is DISMISSED WITH PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

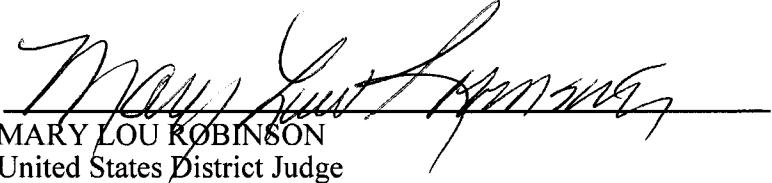
LET JUDGMENT BE ENTERED ACCORDINGLY.

All pending motions are DENIED.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this 9 day of November, 2012.

  
MARY LOU ROBINSON  
United States District Judge